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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2008-268

12 PHYLLIS L BAKER
AKA PHYLLIS LYNN BAKER
13 AKA PHYLLIS LYNN LOPEZ
AKA PHYLLIS LYNN WILHELM
14 PO Box 292154
Phelan, California 92392

A C C U S A T I O N

15 Registered Nurse License No. 610301

16 Respondent.
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19 Complainant alleges:

20 **PARTIES**

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22 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation solely in her
23 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
24 Consumer Affairs.

25 2. On or about December 6, 2002, the Board of Registered Nursing issued
26 Registered Nurse License Number 610301 to Phyllis L Baker aka Phyllis Lynn Baker aka Phyllis
27 Lynn Lopez aka Phyllis Lynn Wilhelm (Respondent). The Registered Nurse License was in full
28 force and effect at all times relevant to the charges brought herein and expired on March 31,

1 2006 and has not been renewed.

2 JURISDICTION

3 3. This Accusation is brought before the Board of Registered Nursing
4 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
5 references are to the Business and Professions Code unless otherwise indicated.

6 STATUTORY PROVISIONS

7 4. Section 2750 of the Business and Professions Code (Code) provides, in
8 pertinent part, that the Board may discipline any licensee, including a licensee holding a
9 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
10 2750) of the Nursing Practice Act.

11 5. Section 2761 of the Code states:

12 The board may take disciplinary action against a certified or licensed nurse or
13 deny an application for a certificate or license for any of the following:

14 (a) Unprofessional conduct, which includes, but is not limited to, the following:

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16 (f) Conviction of a felony or of any offense substantially related to the
17 qualifications, functions, and duties of a registered nurse, in which event the record of the
18 conviction shall be conclusive evidence thereof.

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20 6. Section 2762 of the Code states:

21 In addition to other acts constituting unprofessional conduct within the meaning
22 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed
23 under this chapter to do any of the following:

24 (a) Obtain or possess in violation of law, or prescribe, or except as directed by a
25 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish
26 or administer to another, any controlled substance as defined in Division 10 (commencing with
27 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
28 defined in Section 4022.

1 (b) Use any controlled substance as defined in Division 10 (commencing with
2 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
3 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
4 injurious to himself or herself, any other person, or the public or to the extent that such use
5 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
6 license.

7 (c) Be convicted of a criminal offense involving the prescription, consumption,
8 or self-administration of any of the substances described in subdivisions (a) and (b) of this
9 section, or the possession of, or falsification of a record pertaining to, the substances described in
10 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
11 thereof.

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13 7. Section 2764 of the Code provides, in pertinent part, that the expiration of
14 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
15 against the licensee or to render a decision imposing discipline on the license. Under section
16 2811(b) of the Code, the Board may renew an expired license at any time within eight years after
17 the expiration.

18 8. Section 490 of the Code states:

19 "A board may suspend or revoke a license on the ground that the licensee has
20 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or
21 duties of the business or profession for which the license was issued. A conviction within the
22 meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo
23 contendere. Any action which a board is permitted to take following the establishment of a
24 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
25 been affirmed on appeal, or when an order granting probation is made suspending the imposition
26 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
27 Penal Code."

28 9. Section 125.3 of the Code provides, in pertinent part, that the Board may

1 request the administrative law judge to direct a licentiate found to have committed a violation or
2 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
3 and enforcement of the case.

4 DRUGS

5 10. "Hydrocodone" is a narcotic analgesic that is commonly known as
6 Vicodin and Lortab and is Schedule II controlled substance as designated by Health and Safety
7 Code section 11055(b)(1)(j).

8 11. "Demerol" is a brand of meperidine hydrochloride and is a Schedule II
9 controlled substance as designated by Health and Safety Code section 11055(c)(17).

10 FIRST CAUSE FOR DISCIPLINE

11 (Convictions of Substantially Related Crimes)

12 12. Respondent has subjected her license to disciplinary action under sections
13 2761, subdivision (f) and 490 of the Code as defined in the California Code of Regulations, title
14 16, section 1444, in that Respondent was convicted of crimes substantially related to the
15 qualifications, functions and duties of a licensed registered nurse, as follows:

16 a. On or about October 22, 2007, Respondent was convicted in the San
17 Bernardino Superior Court in the matter of the People of the State of California vs. Phyllis
18 Baker, Case Number FVI702209 on a plea of guilty to violating Health and Safety Code section
19 11368 (forging and issuing prescription) a felony.

20 b. The circumstances are that between April 5, 2004 and March 12, 2005,
21 Respondent, forged prescriptions and called in prescription(s) for drugs including Hydrocodone
22 (Lortab or Vicodin) and other narcotics using the name of two Desert Valley Hospital doctors,
23 without authorization to do so.

24 SECOND CAUSE FOR DISCIPLINE

25 (Forged Prescriptions)

26 13. Respondent is subject to disciplinary action under section 2762(a) of the
27 Code in that Respondent forged prescriptions for controlled substances, including Hydrocodone
28 and other narcotics, and obtained such dangerous drugs from the pharmacy after providing a

1 false and fraudulent prescription as described in paragraphs 12a and 12b above.

2 THIRD CAUSE FOR DISCIPLINE

3 (Obtaining, Possessing, and Self-Administering a Controlled Substance)

4 14. Respondent's license is subject to disciplinary action under section
5 2761(a) and section 2762(a) of the Code in that in or around 2004 while employed as a
6 registered nurse at Riverside Community Hospital, in Riverside, California, Respondent, through
7 fraud, deceit, misrepresentation, subterfuge, or by the concealment of a material fact, obtained,
8 possessed, and self-administered Demerol (Meperidine) without a prescription therefor and
9 without any other legal authority.

10 FORTH CAUSE FOR DISCIPLINE

11 (Dangerous Use)

12 15. Respondent is subject to disciplinary action under section 2762(b) of the
13 Code in that Respondent used controlled substances without a prescription therefore to an extent
14 or in a manner dangerous or injurious to himself or herself, any other person, or the public or to
15 the extent that such use impairs her ability to conduct with safety to the public the practice
16 authorized by her license as described in paragraphs 12a, 12b, 13 and 14 above.

17 PRAAYER

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein
19 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

20 1. Revoking or suspending Registered Nurse License Number 610301,
21 issued to Phyllis L Baker aka Phyllis Lynn Baker aka Phyllis Lynn Lopez aka Phyllis Lynn
22 Wilhelm.

23 2. Ordering Respondent Phyllis L Baker aka Phyllis Lynn Baker aka Phyllis
24 Lynn Lopez aka Phyllis Lynn Wilhelm to pay the Board of Registered Nursing the reasonable
25 costs of the investigation and enforcement of this case, pursuant to Business and Professions
26 Code section 125.3;

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3. Taking such other and further action as deemed necessary and proper.

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DATED: 3/24/08

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RUTH ANN TERRY, M.P.H., R.N.

9

Executive Officer

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Board of Registered Nursing

Department of Consumer Affairs

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State of California

Complainant

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